IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 21657 of 2004

Between:

Kaveti Prabhavatamma, W/o. Kaveti Thirupalu,
R/o. at 1/3313, Nagarigutta, Pulivendla, Cuddapah District.

..... PETITIONER

AND

1 The Collector and District Magistrate, Cuddapah.
2 The Government of A.P., rep. by its Chief Secretary, Secretariat, Hyderabad.
3 The Superintendent, Central Prison, Cherlapalli, R.R.District.

..RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ of Habeas Corpus or any other appropriate Writ or Order holding that the order of detention passed by the 1st respondent in Ref. C1/890/M/04 dt. 9.11.2004 as void and illegal and set at liberty the detenu Kaveti Thirupalu who is detained in the Central prison, Cherlapally, R.R.District.

Counsel for the Petitioner: MR.K.SOMA KONDA REDDY

Counsel for the Respondent No.: THE ADVOCATE GENERAL

The Court made the following :

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ORDER: (per Sri BN.J)

Heard the learned counsel for the parties. Perused the record.

This Habeas Corpus petition has been filed by the wife of the detenu-Kaveti Thirupalu (hereinafter referred to as 'detenu') challenging the order of detention passed by the Collector and District Magistrate on 9.11.2004 in terms of the A.P. Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act 1 of 1986 (for short 'the Act').

Counter has been filed and we have also perused the record. The order of detention passed on 9.11.2004 inter alia reads as under;

> Whereas the information laid before me reveals that Sri Kaveti Tirupalu is organizing financing in transportation and sale of I.D.Liquor. He is also abetting his wife and other persons for committing I.D. crimes as is evident from number of such cases (6) detected against him and (4) cases against his wife."

Then a list of six cases is given which have been registered against the detenu from the year 1998-1999 to 2003-2004 and then it says "further that in addition to the above cases the offender indulged in similar Boot Legging activities through his wife Kaveti Prabhavati as revealed from the following cases booked against her by the Prohibition & Excise Officers". Then the list of four cases is given which were registered between 2002 and 2004.

The District Magistrate was clear in conveying that he arrived at the satisfaction to exercise the powers vested in him for detaining the detenu after going through the material referred to hereinabove. Therefore, there is no dispute that all these 10 cases to which a reference has been made hereinabove were taken into consideration by the District Magistrate in order to come to the satisfaction that the detenu needed to be detained in terms of the Act. But in the grounds of detention, there is no mention of most of the cases referred to in the order of detention. Grounds of detention referred to only three cases viz., 1) Cr.No.103/2000-01 dated 26.8.2000; 2) Cr.No.146/2002-2003 dated 15.12.2002 and 3) Cr.No.21/04-05 dated 15.4.2004. The material regarding only these three cases has been furnished to the detenu. With respect to other seven cases, which were taken into consideration by the District Magistrate, the material has not been given to the detenu. Accordingly, the detenu suffered as he could not have made an effective representation in terms of Article 22 of the Constitution of India. As such, the impugned order of detention is bad and it cannot be sustained.

The impugned detention order is accordingly quashed. The writ petition is allowed. The respondents are directed to release the detenu forthwith, if not required in any other case.

(BILAL NAZKI,J)

dated 15..12..2004

(DR.G.YETHIRAJULU,J)

msv.

To,

1 The Collector and District Magistrate, Cuddapah.
2 The Chief Secretary, Government of A.P.,

Secretariat, Hyderabad.
3 The Superintendent, Central Prison, Cherlapalli, R.R.District.

4 Two CCs to Advocate General, High Court of A.P.

Hyderabad(OUT) .

5 Two CD copies.